

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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Steve Aragon

Chief Counsel

Texas Health and Human Services Commission

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For further information, please call: (512) 424-6900

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**TITLE 4. AGRICULTURE**

**PART 1. TEXAS DEPARTMENT OF AGRICULTURE**

**CHAPTER 7. PESTICIDES**

**SUBCHAPTER H. STRUCTURAL PEST CONTROL SERVICE**

**DIVISION 2. LICENSES**

**4 TAC §7.127**

The Texas Department of Agriculture (the department) proposes amendments to §7.127, concerning fees for structural pest control applicants, licensees and continuing education providers. These amendments are necessary to comply with changes made to the structural pest control program by the 82nd Texas Legislature. The Legislature has required that all of the costs of administering this program be entirely offset by revenue generated for the program and has authorized the agency to collect fees accordingly. In order to meet this Legislative mandate, the department has first reviewed programs for cost savings and efficiencies, then restructured programs, as needed, to provide the best service possible at a reasonable cost to the regulated industry. The proposed amendments to §7.127 will increase structural pest control fees by an average of 57% so that the new leaner and more cost-efficient program may be implemented, under the cost recovery requirement imposed by the 82nd Legislature.

The amendments to §7.127 increases the fees for an original business license from \$180 to \$280; for a renewal business license from \$180 to \$280; for an original certified applicator license from \$85 to \$135; for a renewal certified applicator license from \$80 to \$125; for an original technician license from \$65 to \$100; for a renewal technician license from \$60 to \$95; for administering exams from \$50 to \$75; and for a continuing education course from \$40 to \$60. The amendments to §7.127 also change the times that late fees will be charged to be consistent with other licensing programs and deletes the proration amounts for licenses since licenses are no longer prorated.

Jimmy Bush, Assistant Commissioner for Pesticides, has determined that for the first five-year period the proposed amendments are in effect, there will be fiscal implications for state government due to the increase in fees collected. There will be an estimated increase in state revenue of \$1,070,252 annually. The charging of a fee is necessary to enable the continued operation of a leaner, cost-efficient program due to a new Legislative requirement that this program generate revenue to completely

offset its costs. The ability of the department to enforce statutory requirements will be impacted if the department does not assess a fee that recovers the full cost of the program. There is no anticipated fiscal impact for local governments as a result of administering or enforcing the rule amendments, as proposed.

Mr. Bush has also determined that for each year of the first five year the proposed amendments are in effect, the public benefit anticipated as a result of administering the proposed amendments will be achieving effective recovery of the costs to administering the Structural Pest Control Program, thereby allowing the department to provide consumer protection. The anticipated costs to micro-businesses, small businesses or individuals required to comply with the amendments would affect an estimated 18,299 structural pest control applicants, licensees and continuing education course providers.

Comments on the proposal may be submitted to Jimmy Bush, Assistant Commissioner for Pesticides, Texas Department of Agriculture, P.O. Box 12847, Austin, Texas 78711. Comments must be received no later than 30 days from the date of publication on the proposal in the *Texas Register*.

The amendments to §7.127 are proposed under Occupations Code, §1951.201, which designates the department as the sole authority in the state for licensing persons engaged in the business of structural pest control, and provides the department with the authority to establish fees under Chapter 1951 in amounts reasonable and necessary to cover the costs of administering the department's programs and activities under Chapter 1951.

The code affected by the proposal is the Occupations Code, Chapter 1951.

*§7.127. Fees.*

~~(a)~~ Applicants, licensees and continuing education providers will be charged the following fees:

- (1) ~~\$280~~ [~~\$180~~] for an original business license;
- (2) ~~\$280~~ [~~\$180~~] for renewal of a business license;
- (3) ~~\$135~~ [~~\$85~~] for an original certified applicators license;
- (4) ~~\$125~~ [~~\$80~~] for renewal of a certified applicators license;
- (5) ~~\$100~~ [~~\$65~~] for an original technician license;
- (6) ~~\$95~~ [~~\$60~~] for an renewal of a technician license;
- (7) \$30 for duplicate business license, certified applicator license or technician license when the original has been lost or destroyed;
- (8) \$30 for reissuing a business license, certified applicators license or technician license due to a name change in the license;
- (9) ~~\$75~~ [~~\$50~~] for administering exams in each category;
- (10) a renewal fee for applications received 90 days or less [~~1 day to 30 days~~] after expiration date equal to 1-1/2 times the normally required renewal fee;
- (11) a renewal fee for applications received greater than 90 days but less than one year [~~31 to 60~~] days after expiration date equal to 2 times the normally required renewal fee; and
- (12) ~~\$60~~ [~~\$40~~] for continuing education course.

~~(b)~~ The following fees are based on increments of six (6) months;

~~(1)~~ Business License Fees

- [(A) Issued for 1 day - 6 months \$92.50]
  - [(B) Renewed for 1 day - 6 months \$90.00]
  - [(C) Issued for 7 - 12 months \$180.00]
  - [(D) Renewal for 7 - 12 months \$180.00]
  - [(E) Issued for 13 - 18 months \$267.50]
  - [(F) Renewal for 13 - 18 months \$270.00]
- [(2) Certified Applicator License Fees]
- [(A) Issued for 1 day - 6 months \$45.00]
  - [(B) Renewed for 1 day - 6 months \$40.00]
  - [(C) Issued for 7 - 12 months \$85.00]
  - [(D) Renewal for 7 - 12 months \$80.00]
  - [(E) Issued for 13 - 18 months \$125.00]
  - [(F) Renewal for 13 - 18 months \$120.00]
- [(3) Technician License Fees]
- [(A) Issued for 1 day - 6 months \$35.00]
  - [(B) Renewed for 1 day - 6 months \$30.00]
  - [(C) Issued for 7 - 12 months \$65.00]
  - [(D) Renewal for 7 - 12 months \$60.00]
  - [(E) Issued for 13 - 18 months \$95.00]
  - [(F) Renewal for 13 - 18 months \$90.00]

This agency hereby certifies that the proposal has been reviewed by legal counsel and found to be within the agency's legal authority to adopt.

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 Dolores Alvarado Hibbs  
 General Counsel  
 Texas Department of Agriculture  
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**TITLE 10. COMMUNITY DEVELOPMENT**  
**PART 1. TEXAS DEPARTMENT OF HOUSING AND COMMUNITY AFFAIRS**  
**CHAPTER 5. COMMUNITY AFFAIRS PROGRAMS**  
**SUBCHAPTER I. WEATHERIZATION ASSISTANCE PROGRAM DEPARTMENT OF ENERGY AMERICAN RECOVERY AND REINVESTMENT ACT (WAP ARRA)**

**10 TAC §§5.900 - 5.905**

The Texas Department of Housing and Community Affairs (the "Department") proposes amendments to 10 TAC Chapter 5, Subchapter I, §§5.900 - 5.905, Weatherization Assistance

Program Department of Energy American Recovery and Reinvestment Act (WAP ARRA), concerning the deobligation and reobligation of funds. The amended sections are proposed in order to alter the exceptions through which subrecipients will not receive a deobligation notice. Other amended sections modify the documentation the subrecipient must submit when notified of possible deobligation.

The proposed amendments are necessary in order to require a higher level of production and expenditures before a subrecipient is exempted from deobligation; and once deobligation has been initiated, the amendments require subrecipients to submit information that offers a more definitive indication of a subrecipient's ability to meet contractual expectations.

Mr. Timothy K. Irvine, Acting Director, has determined that for the first five-year period the proposed amendments are in effect there will be no fiscal implications for state or local governments as a result of enforcing or administering the amended sections as proposed.

Mr. Irvine has also determined that for each year of the first five years the proposed amendments are in effect the public benefit anticipated as a result of enforcing the section will be enhanced compliance with formalized policy, all contractual and statutory requirements.

There will be no effect on small businesses or persons. There is no anticipated economic cost to persons who are required to comply with the section as proposed. The amended sections as proposed will not impact local employment.

The public comment period will be held between July 9, 2011 to July 20, 2011 to receive input on the proposed amendments and a public hearing will be held. Information on the public hearing may be found in the "In Addition" section of this issue of the *Texas Register* and may also be found at <http://www.tdhca.state.tx.us>. Written comments may be submitted to Texas Department of Housing and Community Affairs 2011 Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, by e-mail to [tdhcarulecomments@tdhca.state.tx.us](mailto:tdhcarulecomments@tdhca.state.tx.us), or by fax to (512) 475-4624. ALL COMMENTS MUST BE RECEIVED BY 5:00 P.M. JULY 20, 2011.

The amendments are proposed pursuant to the authority of the Texas Government Code, Chapter 2306 which provides the Department with the authority to adopt rules governing the administration of the Department and its programs.

The proposed amendments affect no other code, article or statute.

*§5.900. Deobligation and Reobligation of Funds for Department of Energy Weatherization Assistance Program under the American Recovery and Reinvestment Act.*

Under the American Recovery and Reinvestment Act of 2009 (ARRA), the Texas Department of Housing and Community Affairs (the "Department") is receiving funding from the U.S. Department of Energy for the Weatherization Assistance Program (WAP). The Department is adopting rules to establish the processes and criteria to be used for the Deobligation of WAP ARRA funds committed to a Subrecipient pursuant to the Department's required plan submitted to and approved by the U.S. Department of Energy, together with all amendments thereto, and the subsequent Reobligation of those funds. [These sections will also apply to any New Providers of WAP ARRA Funds.] The Department is adopting these sections in order to assure the timely and appropriate use of WAP ARRA funds; compliance with federal accountability, transparency, and programmatic requirements; and that WAP